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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/340,218	06/25/1999	GEORGE G. CHADWICK	MGC9901	3626
32112	7590	04/21/2005	EXAMINER	
INTELLECTUAL PROPERTY LAW OFFICE 1901 S. BASCOM AVENUE, SUITE 660 CAMPBELL, CA 95008			WEST, LEWIS G	
			ART UNIT	PAPER NUMBER
			2682	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/340,218

Applicant(s)

CHADWICK, GEORGE G.

Examiner

Lewis G. West

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments filed November 29, 2004 have been fully considered but they are not persuasive.

Again, regarding “non-propagating”, applicant cannot redefine a term outside what is specified. Applicant continues to argue that non-propagating is essentially evanescent, however applicant cannot be given credit for what was not shown at the time of original application. The terms “quasi-static” and “non-propagating” are defined reasonably in light of what is specified by the applicant. A later discovered property or limitation, like “evanescent” cannot be given patentable weight and non-equivalent terms will not be redefined outside the scope of the specification due to improved understanding that occurs after the original filing.

Regarding propagation of information in Hershey, changes in flux determine communication transmitted through the system and not far-field propagation or even near field wave propagation. So Hershey reads on applicant's limitation of non-propagating.

Applicant admits that the grid size limitation is found “literally” in Hershey. The benefit does not have to be specifically addressed to read on applicant's limitation.

Applicant again argues that Hershey does not communicate based on speed. Once again, slow communication is still communication. This limitation is not “ignored” as argued by applicant; applicant has merely failed to provide any relevant argument to overcome the rejection. The limitation “suitable for use in wireless communication networks” has very little weight as it is part of the preamble and merely states a possible use for the system and not a required part of the system; regardless, the system of Hershey does communication with a wireless network; see column 4 lines 1-3.

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The provided demonstration cannot be taken into consideration in view of the rejection, as it is unclear what applicant is attempting to overcome, as the system's ability to function has not been rejected or brought into question. Evidence to overcome a particular rejection should be filed with an affidavit under 37 CFR 1.132.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless—

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14, 15 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hershey (US 6,329,928 B1).

Regarding claim 14, Hershey discloses an electromagnetic field communication system, suitable for use with wireless networks comprising: a structure including an electrically conductive grid array having a grid opening size (building frame 10); and means for generating a quasi-static non-propagating electromagnetic field within said structure by feeding a frequency signal into said electrically conductive grid array (Col. 3 lines 40-57); wherein the frequency of said frequency signal is selected such that the dimension of the grid opening size is small relative to the wavelength of said frequency signal. (Col. 4 lines 17-30)

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Regarding claim 15, Hershey discloses a communication system wherein the frequency of said frequency signal is selected such that the wavelength is greater than twice the dimension of the grid opening size. (Col. 4 lines 17-30)

Regarding claim 17, the electromagnetic field communications system of claim 14 wherein said wireless communications devices are radios. (Col. 4 lines 1-3)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hershey in view of Iwata (US 4, 462,113).

Regarding claim 16, Hershey discloses the electromagnetic field communications system of claim 14, (Col. 4 lines 17-30). Hershey does not use radio frequencies in communication. Iwata discloses an intra building communication system using an existing grid array to communication using near field within a building at a frequency range of 100-400 MHz. (Col. 4 line 14-col. 5 line 15) Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a frequency signal in the range of 3 to 400 Megahertz in an electromagnetic field communications system, because of the advantageous properties at higher frequencies such as less susceptibility to interference, and motivation lies in Iwata to use said frequency range as suitable for a buildings attenuation requirements.

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Regarding claim 18, Hershey discloses an electromagnetic field system, comprising: a structure including an electrically conducting grid array having a grid opening size; an electromagnetic field generator for generating a quasi-static electromagnetic field within said structure by feeding a frequency signal into said electrically conductive grid array; and wherein said grid opening size is small relative to the wavelength of said frequency signal. (Col. 4 lines 17-30) Hershey does not use radio frequencies in communication. Iwata discloses an intra building communication system using an existing grid array to communication using near filed within a building at a frequency range of 100-400 MHz. (Col. 4 line 14-col. 5 line 15) Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a frequency signal is in the range of 3 to 400 Megahertz in an electromagnetic field communications system, because of the advantageous properties at higher frequencies such as less susceptibility to interference, and motivation lies in Iwata to use said frequency range as suitable for a buildings attenuation requirements.

Regarding claim 19, the combination of Hershey and Iwata discloses the electromagnetic field system of claim 18, wherein the dimension of said grid opening is less than one half the wavelength of the frequency signal. (Col. 4 lines 17-30)


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis G. West whose telephone number is 571-272-7859. The examiner can normally be reached on Monday-Friday 7:00-3:30.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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